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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,556	09/29/2004	Alain Delval	930024-2013	5915
7590 Ronald R Santucci Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
EXAMINER WILSON, JOHN J				
ART UNIT 3732		PAPER NUMBER		
MAIL DATE 04/10/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,556

Applicant(s)

DELVAL ET AL.

Examiner

John J. Wilson

Art Unit

3732

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higaki et al (7077830). Higaki shows a tool holder, Fig. 2, an elongated body 33, cylindrical channel at 34, a port that opens to outside at 321 which widens at 31, means defining channel 14 that is capable of keeping a tool bent such that a portion of the tool is not parallel to the axis of the body, and has a surface, as shown at the end, that has at least one generatrices that is substantially parallel to the cylindrical part of the channel as shown. The specific alignment with the inferentially claimed tool is merely intended use, and as such, is not given any patentable weight.

Claims 1-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cislak (1993398) in view of Higaki et al (7077830). Cislak shows a tool holder having an elongated body 13, channel 15, 16, cylindrical part of the channel 15, means 22 for keeping a tool in position. Cislak does not show a widened end with at least one generatrices parallel to the channel. Higaki shows an opening that widens at the end and has at least one generatrices that is parallel with the channel. It would be obvious to one of ordinary skill in the art to modify Cislak to include the opening shape as shown

by Higaki in order to better hold a tool. The shown means for keeping the tool in position is inherently capable of keeping a tool with an axis not parallel to the axis of the body, for example, the claimed structure could keep a bent tool in position. The intended use of this shown structure with an inferentially claimed flexible deformable tool is not given any patentable weight. The specific manner in which the shown structure may interact with the inferentially claimed tool in use is held to be an obvious matter of choice in the use of a known structure. As to claims 4-6, the type of connection used is an obvious matter of choice in well known connecting means to one of ordinary skill in the art. As to claim 8, the shown tool is inherently flexible and deformable to some degree. The shown elements that are intended to mate with the inferentially claimed tool are capable of allowing rotation.

Response to Arguments

Applicant's arguments filed January 28, 2008 have been fully considered but they are not persuasive. Applicant argues that Cislak does not show a tool holder for receiving a flexibly deformable tool or means for keeping the tool in position so at least a portion is not parallel to the axis, however, because the tool is only inferentially claimed, it is only necessary to show a tool holder that is capable of functioning with a tool as claimed and it is not necessary to show a tool with an axis not parallel to the axis of the body. The shown structure is inherently capable of holding a bent tool, for example, the bent steel needle 80 shown in the art cited by applicant, 4,512,769.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez, can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***/John J Wilson/
Primary Examiner
Art Unit 3732***

jw
April 1, 2008